

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

McNOSKY, et al,	§	
<i>Plaintiffs,</i>	§	
v.	§	
	§	Case No. 1:13-CV-631-SS
PERRY, et al,	§	
<i>Defendants.</i>	§	
	§	
	§	
ZAHRN, et al,	§	
<i>Plaintiffs,</i>	§	
v.	§	Case No. 1:13-CV-955-SS
	§	
PERRY, et al,	§	
<i>Defendants.</i>	§	
	§	
	§	

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**ALL PLAINTIFFS' AND DEFENDANTS' JOINT SCHEDULING PROPOSAL**

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TO THE HONORABLE SAM SPARKS:

Pursuant to the Court's order of January 10, 2014 (*McNosky* Doc. 49; *Zahrn* Doc. 20), all plaintiffs in the above-captioned cases (collectively, Plaintiffs), together with all defendants, including Governor Perry and Attorney General Abbott, defendants in both cases (together, State Defendants), Mary Louise Garcia, Tarrant County Clerk, defendant in *McNosky*, and Dana DeBeauvoir, Travis County Clerk, defendant in *Zahrn*, (plaintiffs and defendants collectively, the Parties), hereby submit the following scheduling proposal.

**Alternative Dispute Resolution (ADR).** Parties agree that ADR is not appropriate due to the nature of this case and therefore no ADR report is necessary under Local Rule CV-88(b). However, if the Court requires an ADR report, Parties propose a deadline of January 31, 2014.

**Settlement Offers.** Parties propose that Plaintiffs deliver their written settlement offers by January 31, 2014. Defendants' deadline for response is February 10, 2014.

**Motions to Amend Pleadings and/or Add Parties.** Parties shall file all motions to amend or supplement pleadings or add parties by February 28, 2014.

**Discovery.** The Parties agree that discovery is not needed in these cases and there will be no expert discovery, evidence, or testimony. Parties further agree that resolution of these cases will turn on questions of law, not fact issues. Accordingly, Parties propose a discovery deadline of February 28, 2014.

**Class Certification.** Parties propose that a motion for class certification in the *Zahrn* case be due February 28, 2014. Defendants' response should be due March 28, 2014. The class-certification reply should be due April 11, 2014.

**Summary Judgment.** The Parties are in agreement that these cases can be decided on summary judgment; no trial or live witness testimony is necessary. The

Parties propose that the deadlines for motions for summary judgment should be keyed off of the Court's ruling on class certification. Additionally, to reduce the number of filings that would result from cross-motions for summary judgment, Parties propose the following four-brief arrangement:

- Motion. Plaintiffs' motion (amended motion for *McNosky* plaintiffs) for summary judgment shall be filed within 45 days of the Court's ruling on class certification. The page limit for summary-judgment motions should be set at 60 pages.
- Response. Defendants' summary-judgment responses will be due 30 days after the deadline for the motions for summary judgment. The page limit for responses should be 60 pages.
  - To conserve resources, avoid needless filings, and synchronize the filing deadlines, the Parties further propose that the deadline for the State Defendants' and Garcia's responses to the *McNosky* plaintiffs' motion and amended motion for summary judgment, filed on December 23, 2013 (Doc. 37) and January 12, 2014 (Doc. 48), respectively, shall be set according to this scheduling proposal rather than the current deadline of January 30, 2014. State Defendants and Garcia will file an unopposed motion for extension of time to this effect.
- Reply. Plaintiffs' summary-judgment replies will be due 14 days after the deadline for the defendants' responses. The page limit for replies should be 30 pages.

- Surreply. Defendants' summary-judgment surreplies will be due 14 days after the deadline for the plaintiffs' replies. The page limit for surreplies should be 30 pages.

If the Court decides against this proposed approach, the deadlines for cross-motions for summary judgment should follow the proposal above with the exception of surreplies, which would not be filed.

**Final Hearing.** As stated, the Parties believe that no discovery is necessary in these cases and therefore a trial is unnecessary. In light of the Court's statement of intent to hold a single, dispositive hearing on these cases, the Parties propose that a final hearing be held 30 days after the deadline for the summary-judgment surreply.

Respectfully submitted.

/s/ Jason P. Steed

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**CERTIFICATE OF SERVICE**

I certify that on January 28, 2014, this document was sent via the Court's CM/ECF Document Filing System, electronic mail, and/or U.S. Certified Mail to all parties and counsel.

*/s/ Michael P. Murphy* \_\_\_\_\_  
MICHAEL P. MURPHY

**CERTIFICATE OF CONFERENCE**

I certify that all parties and counsel, except counsel for Defendant DeBeauvoir, conferred about this proposal by phone on January 22, 2014 and all agreed to join this proposal. I conferred with counsel for Defendant DeBeauvoir on January 27, 2014, and counsel expressed that her client agrees with and joins the proposal.

*/s/ Michael P. Murphy* \_\_\_\_\_  
MICHAEL P. MURPHY